BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER RULING DECISION NO. 86 AS A PRECEDENT DECISION PURSUANT TO SECTION 409 OF THE UNEMPLOYMENT INSURANCE CODE.

In the Matter of the
Reserve Account of:

L. A. SHOE MFG. COMPANY
c/o Corporation Counseling Service

PRECEDENT
RULING DECISION
No. P-R-279

FORMERLY
RULING DECISION
No. 86

Account No.

PHILOMENE MESSIER
(Claimant)
S.S.A. No.

The above-named employer appealed from the decision of a Referee (LA-R-1596) which held that the employer's account is chargeable under Section 1032 of the Unemployment Insurance Code with respect to benefits paid to the claimant. Oral argument was heard by the Appeals Board on July 12, 1954, in Los Angeles.

Based on the record before us, our statement of fact, reason for decision and decision are as follows:

STATEMENT OF FACT

The claimant worked for the appellant for eight months ending February 8, 1952, when she left her work voluntarily for reasons hereinafter set forth.

On June 7, 1953, the claimant registered for work and filed her claim for benefits, the base period of this claim being the calendar year 1952. The appellant as a base period employer submitted timely information in

response to a notice of computation, contending that the claimant had voluntarily left her work without good cause on February 8, 1952. On August 4, 1953, the Department issued a ruling under Section 39.1 of the Unemployment Insurance Act (now sections 1030 and 1032 of the Unemployment Insurance Code) which held that the claimant had left her work on February 8, 1952, with good cause. Upon appeal to a Referee, the ruling was affirmed.

During the period of employment in issue, the claimant understood from her foreman that the appellant intended to move its operations to a new plant in Los Angeles. The time and cost of transportation between the claimant's residence in Temple City and such intended Los Angeles site of appellant's plant would have been excessive because it would have required about one hour and fifteen minutes in time and forty-five cents in cost, whereas the claimant's residence in Temple City was so close to the appellant's plant in Pasadena that it required claimant to spend only twenty minutes in commuting time at a cost of fifteen cents. Shortly prior to February 8, 1952, the claimant received an offer of work in her usual occupation from another shoe manufacturer in Temple City for whom the claimant had worked in the past. The claimant did not wish to leave her work with the appellant and consulted her foreman in order to determine whether the appellant intended to move to Los Angeles. The claimant was advised by the foreman that such a move was in fact being contemplated. The foreman promised the claimant that if she lost her work with the second employer, she would be rehired. Thereupon, the claimant left her work and immediately began to work with the second employer. The claimant was laid off by the second employer sometime in June of 1952, and was rehired by the appellant at its Pasadena plant the following day. She filed no claim for benefits until one year later when she was laid off temporarily for approximately one week.

A representative of the employer, who represents the employer only with respect to unemployment insurance matters, appeared and testified that the employer had never contemplated moving from Pasadena to Los Angeles, as the Los Angeles plant was to be operated as a separate entity. A Department representative testified to a conversation with the claimant's foreman in August of 1953, during which the foreman indicated that the move to Los Angeles was still being given consideration.

The Referee's affirmation of the Department's ruling was predicated on the appellant's failure to present any evidence by means of which the two employments could be compared.

REASON FOR DECISION

Good cause for leaving work exists in those situations where the facts disclose a real, substantial, and compelling reason for leaving work of such nature as would cause a reasonable person, genuinely desirous of retaining employment, to take similar action (Benefit Decision No. 5686). When an individual leaves work because he has obtained other employment, the burden is on the employer in a ruling case to show that the leaving of work was without good cause by presenting evidence by means of which the two employments may be compared (Ruling Decision No. 10).

In the instant case, the appellant's failure to present evidence by means of which the two employments might be compared is immaterial to the question before us, as the record discloses that the claimant left her work, not because she preferred the second employment, but for other reasons. It is only by an evaluation of these other reasons that a decision can be reached as to whether her reasons for leaving constituted good cause within the meaning of Section 39.1 of the Act [now sections 1030 and 1032 of the code].

If the evidence be viewed in a light most favorable to the appellant, it may be said that there was no intention to move its operations from Pasadena to Los Angeles. Where the intentions of an employer are material to the question of good cause for a voluntary leaving of work, it is not the undisclosed intentions which are decisive, but the intentions as they were made known to the employee which must be given consideration (Benefit Decision No. 5906). Similarly, in the instant case, the claimant concluded after a discussion with her foreman that her employer intended to move its operations to Los Angeles, a locality from which it would have been impractical to commute from her residence. So far as she knew, there was a high probability that in the foreseeable future she would be faced with a choice of remaining on the job under onerous conditions or leaving it for reasons this Board has consistently held to be with good cause. To avoid this situation, the claimant

accepted an offer of work only after eliciting a promise from her employer that she would be rehired if the second employment did not prove to be permanent. Under such circumstances, the claimant had a compelling reason for leaving work. Accordingly, we hold that the claimant voluntarily left her work with good cause within the meaning of Section 39.1 of the Act /now sections 1030 and 1032 of the code/.

DECISION

The decision of the Referee is affirmed. Benefits are chargeable as therein provided.

Sacramento, California, December 3, 1954.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

MICHAEL B. KUNZ, Chairman

GLENN V. WALLS

EDWARD CAIN

Pursuant to section 409 of the Unemployment Insurance Code, the above Ruling Decision No. 86 is hereby designated as Precedent Decision No. P-R-279.

Sacramento, California, March 23, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT